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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )

Implementation of Section 8 of  
the Cable Television Consumer  
Protection and Competition Act  
of 1992 )

Consumer Protection and Customer  
Service )

MM Docket No. 92-263

**PETITION FOR RECONSIDERATION OF THE  
NATIONAL CABLE TELEVISION ASSOCIATION, INC.**

The National Cable Television Association, Inc.

("NCTA"), pursuant to FCC rule § 1.429, hereby submits its petition for reconsideration of the Commission's Report & Order in this docket, adopted March 11, 1993 and released April 7, 1993 ("R&O").<sup>1/</sup> NCTA is the principal trade association of the cable television industry in the United States, representing the owners and operators of cable systems serving over 90% of the nation's 56 million cable households. NCTA's members also include cable programmers, cable equipment manufacturers and other entities affiliated with the cable television industry.

NCTA seeks reconsideration of those aspects of paragraphs 10-12, 19-21 and 26 of the R&O which permit local franchising authorities to unilaterally impose and enforce customer service standards more stringent than the FCC's national

<sup>1/</sup> Publication of the R&O in the Federal Register occurred on April 19, 1993.

standards, regardless of franchise or contractual restrictions, and despite the limits of federal renewal standards.

In the R&O, the Commission fails to address three critical implications of its decision. First, the Commission's decision nullifies that passage of Section 623(b) of the Cable Act which declares that the Commission shall pass customer service standards "by which cable operators may fulfill their customer service requirements." 47 U.S.C. § 552(b) (emphasis added). The Commission concluded that the statute "does not prevent the enactment and enforcement of any State or municipal law or regulation concerning consumer protection or customer service which imposes service requirements that exceed, or involve matters not addressed by, the Federal standards." R&O ¶ 12. Nowhere in the R&O does the Commission give meaning to the statutory requirement that the FCC's customer service requirements are to be a method by which a cable operator "may fulfill" its obligations. The Commission's decision to allow franchising authorities to unilaterally exceed the FCC's standards guts the meaning of the statutory language.

Second, the R&O renders meaningless that passage of Section 632(c)(2) which declares that the statute shall not "preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission." 47 U.S.C. § 552(c)(2) (emphasis added). For this statutory language to have any meaning at all,

a franchising authority may not be permitted to impose customer service standards unique to cable television operators unless the cable operator agrees to those standards. The second sentence of Section 632(c)(2) indicates that a state or local government may also impose customer service or consumer protection laws more stringent than the Commission's standards without the agreement of a cable operator. But this can only be meant to refer to laws that are generally applicable to a broad range of services and businesses. If, as the R&O concludes, that provision authorizes cable-specific requirements more stringent than the FCC's standards, then the provision specifying that operators "may fulfill" their obligations by complying with the FCC's standards, and the language authorizing more stringent requirements upon agreement of the cable operator, are meaningless. This passage simply clarifies the ability of the franchising authority to agree with the cable operator to standards that exceed the national standards. Upon reconsideration, the Commission should give this statutory language the only meaning possible: a franchising authority may not enact customer service standards that exceed the FCC standards without the agreement of the cable operator.

Finally, NCTA seeks reconsideration of the Commission's decision to allow a franchising authority to impose the FCC standards (or other, more stringent standards) in the middle of a franchise term. Section 626 of the Cable Act, 47 U.S.C. § 546, entitles a cable operator to renewal of its franchise if the

operator meets enumerated criteria. The statutory criteria for renewal, among other things, require a consideration of (a) compliance with the terms of the franchise, and (b) whether "the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices . . . has been reasonable in light of community needs," and whether the overall proposal for the renewal franchise "is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests."


47 U.S.C. § 546(c)(1)(A)-(D) (emphasis added). Thus, a cable operator's customer service obligations are inextricably tied to

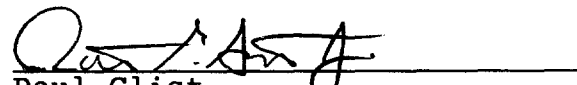
standards. To the detriment of subscribers, and to the peril of many cable operators, the franchising authority may impose these standards in the middle of a franchise term with no regard for the actual cost of meeting those standards. This interpretation eviscerates the corollary provisions of Section 626, and should be reconsidered.

For the foregoing reasons, NCTA asks that the Commission grant reconsideration of its R&O.

Respectfully submitted,

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